

RECEIVED IN THE UNITED STATES DISTRICT COURT
FOR THE MIDDLE DISTRICT OF ALABAMA
NORTHERN DIVISION
2006 JAN 11 AM 11:00

AIMEE SMITH,

Plaintiff,

vs.

KENTUCKY FRIED CHICKEN,

Defendant.

Civil Action No. CV- 2:06cv27-C

DEMAND FOR JURY TRIAL

COMPLAINT

JURISDICTION AND VENUE

1. This is a complaint for legal and equitable relief to redress violations by the defendant of the plaintiff's rights secured by:

a) Title VII of the Civil Rights Act of 1964, as amended, 42 U.S.C. 2000e, et seq.

2. Federal subject matter jurisdiction exists pursuant to:

a) 28 U.S.C. 1331, 1343(4) and 1367; and

b) Title VII of the Civil Rights Act of 1964, as amended, 42 U.S.C. 2000e, *et seq.*

PARTIES

3. Plaintiff, Aimee Smith, (hereinafter "Smith"), is a black female, and a resident citizen of Montgomery County, Alabama.

4. Defendant, Kentucky Fried Chicken (hereinafter "KFC"), is a restaurant doing business in this judicial district. Defendant, at all times relevant to this Complaint, was doing business in this judicial district. Defendant is an employer within the meaning of Title VII.

NATURE OF ACTION

5. Smith brings this action of unlawful employment practices and acts of intentional sexual harassment and retaliation that occurred during her employment with KFC, doing business in this judicial district. There exists an employer-employee relationship between Smith and KFC.

6. This action is to redress acts of discrimination for severe and pervasive sexual harassment, gender discrimination and retaliation by Jimmy Snell and KFC. This is an action to further redress grievances resulting from the acts of KFC, its agents, servants, and employees committed with respect to Smith's employment, and for a permanent injunction restraining KFC from maintaining a practice of sexually harassing and discriminating against other females similarly situated.

7. Smith seeks declaratory and injunctive relief, award of compensatory and punitive damages, mental anguish, costs, attorney's fees, and any and all such other relief the trier of fact may assess.

8. The actions alleged below constitute acts of continuing violations of the law.

ADMINISTRATIVE PROCEDURES

9. Within 180 days of learning of the acts of discrimination of which she complains, Smith filed a charge of discrimination on November 2, 2003, with the Equal Employment Opportunity Commission (hereinafter "EEOC"), Charge No. 130 2004 00534. **(See Exhibit 1).**

10. On December 11, 2003, Smith filed an amendment to her charge of discrimination. **(See Exhibit 2).**

11. On February 26, 2004, Smith filed a second amendment to her charge of discrimination. **(See Exhibit 3).**

12. Smith received a Cause Determination on April 29, 2005, **(see Exhibit 4)**, and a Notice of Right to Sue on October 13, 2005 **(see Exhibit 5).**

13. All administrative prerequisites for filing suit have been satisfied and Plaintiff is entitled to bring this action.

STATEMENT OF FACTS

14. Smith is a black female. Smith began her employment at KFC on or about March 2003, as a cashier.

15. Soon after Smith began her employment, a co-worker, Jimmy Snell, began to sexually harass her. Snell made inappropriate, non-consensual sexual comments to and about Smith in her presence and without her consent. Snell physically assaulted Smith by grabbing her buttocks, legs, arms and shoulders. Snell exposed Smith to sexually explicit photos on his cell phone.

16. Smith repeatedly refused Snell's unwelcome sexual advances and told Snell in on uncertain terms how offended she was at his conduct on each occasion.

17. When Snell continued to sexually harass her, Smith reported his conduct to her manager, Glenda Johnson, repeatedly. Johnson did not provide assistance, but rather condoned Snell's action. Smith further reported Snell's conduct to Pat Hicks, Duty Manager, and Ann Knight, Shift Manager. Both individuals assured Smith they would take care of the harassment, but nothing was done and Snell did not cease his unlawful conduct. Subsequent to this complaint, Smith also

reported Snell to Linda Stephenson, Night Manager, who told Smith she would speak with the General Manager. Smith also called an "800" number to report her complaints.

18. Upon the completion of Smith's complaining to every level of management possible, KFC terminated Smith for no apparent reason in retaliation for her complaints of sexual harassment.

COUNT ONE

SEXUAL HARASSMENT

VICARIOUS AND STRICT LIABILITY/HOSTILE ENVIRONMENT

19. Smith realleges paragraphs 1-17, above, as if set out in full herein.

20. This is a claim against KFC arising under the Title VII of the Civil Rights Act of 1964, as amended, 42 U.S.C. § 2000e *et seq.*, prohibiting sexual harassment in the workplace.

21. Smith is a female and a member of a protected group. Plaintiff was subjected to repeated sexual harassment by her co-worker, Jimmy Snell. Plaintiff's working conditions were altered.

22. KFC's discriminatory and hostile conduct created by Snell and KFC caused an insulting, harassing, intimidating and offensive work environment to Smith.

23. Smith's terms of employment and work environment were severely altered. The conduct complained of was severe and pervasive.

24. KFC subjected Smith to repeated sexual harassment and intimidation causing her work environment to be permeated with discriminatory conduct, ridicule, and insult that altered her work conditions.

25. The conduct of KFC alleged herein violates Title VII because Smith was required to work in a sexually hostile environment, tainted by impermissible sex and gender discrimination, which subjected Smith to being sexually harassed and retaliated against by KFC.

26. Smith did not welcome the sexual harassment nor the hostile work environment created by KFC.

27. Smith seeks declaratory and injunctive relief, award of lost employment benefits and wages, back pay, front pay, interest, compensatory and punitive damages for loss of career opportunity, humiliation, embarrassment and mental anguish; costs, attorneys' fees, and any and all such other relief the trier of fact may assess.

COUNT TWO

RETALIATION

28. Smith realleges paragraphs 1-26, as if fully set out herein.

29. This is a claim against KFC for the illegal and intentional acts of retaliation toward Smith for complaining about illegal discrimination.

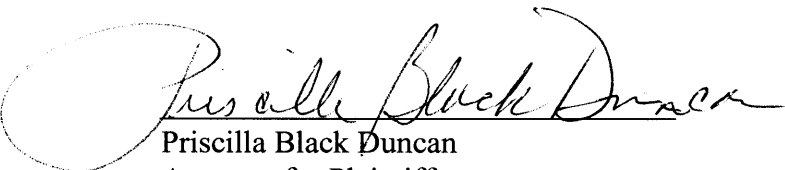
30. Smith was subjected to sexual harassment by Snell. Smith complained to management about the sexual harassment. Thereafter, Smith was subjected to ongoing hostilities in retaliation of her complaints of sexual harassment by her co-worker, Jimmy Snell. Smith's work environment and conditions were materially altered and changed. Smith was terminated.

31. Smith seeks declaratory and injunctive relief, award of lost employment benefits and wages, back pay, front pay, interest, compensatory and punitive damages for loss of career opportunity, humiliation, embarrassment, and mental anguish; costs, attorneys' fees and any and all such other relief the trier of fact may assess.

WHEREFORE, PREMISES CONSIDERED, Smith respectfully requests this Court:

- A) Grant a permanent injunction enjoining KFC, its officers, successors, assigns, Jimmy Snell and all persons in active concert or participation with it, from engaging further in its discriminatory treatment.
- B) Order KFC to institute and carry out policies, practices and programs which provide equal provisions and employment opportunities for all employees, and which eradicate the effects of its past and present unlawful employment practices, including implementing a policy against sexual harassment;
- C) Order KFC and Snell to make Smith whole by providing appropriate affirmative relief necessary to eradicate the effects of its unlawful employment practices, including, but not limited to, compensatory and punitive damages.
- E) Award Smith her costs and expenses herein, including a reasonable attorney fees; and,
- F) Award such other and further relief which this Court deems necessary and proper.

Respectfully submitted,


Priscilla Black Duncan
Attorney for Plaintiff

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PLAINTIFF DEMANDS TRIAL BY STRUCK JURY

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